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H – 1174

International Court of Justice

H1174-0002

# CONSTANTIN VON NEURATH.

## STATEMENT OF EVIDENCE.

### I.

THE DEFENDANT VON NEURATH HELD THE FOLLOWING POSITIONS AND HONOURS:-

A. Member of NSDAP from 30 January 1937 - 45

(Awarded Golden Party Badge 30 January 1937)

B. SS. General SS # 287680

1. Personally appointed Gruppenfuhrer by Hitler September 1937.

2. Promoted to Obergruppenfuhrer 21 June 1943.

C. Reich Minister of Foreign Affairs.

1. Under the Chancellorship of defendant von Papen - 2 June 193

2. Under the Chancellorship of Hitler 30 Jan. 193

3. Replaced by Ribbentrop on 4 Feb. 193

D. Reichminister from 4 February until May 1945

E. President Secret Cabinet Council (appointed 4 Feb. 193

F. Membership of the Reich Defense Council. This matter is discussed below.

G. Reichs Protector for Bohemia and Moravia from 18 March 1939 until replaced by Frick on 25 August 1943.

H. Awarded "Adlerorden" by Hitler at time of appointment as Reichsprotektor. Ribbentrop was the only other German to receive this decoration.

US.19
2972 PS

US.19 2972 PS.

The Defendant makes comments on certain of these matters to the following effect:-

A. That the award of the Golden Party Badge was made on 30 January 1937 against his will, and without being asked.

This defendant not only refrained from repudiating the allegedly unwanted honour but, after receiving it, attended meetings at which wars of aggression were planned, actively participated in the rape of Austria, and tyrannised over Bohemia and Moravia.

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B. That his appointment as Gruppenfuhrer was also against his will and without his being asked:

The prosecution submits that the wearing of the uniform, th receipt of further promotion, and the actions against Bohemia and Moravia must be considered on this point.

C. That his appointment as Foreign Minister was by Reichspresi von Hindenburg.

The prosecution draw attention to the personalities of the defendants von Papen and Hitler, and to the fact that President von Hindenberg died in 1934.

D. That he was an "inactive" minister from 4 February 1938 until May 1945:

Attention is drawn to the activities mentioned below and to the terrible evidence as to Bohemia and Moravia, which will be forth coming from the Soviet Chief Prosecutor.

E. That the Secret Cabinet Council never sat or conferred:

This was described as a Select Committee of the Cabinet for the deliberation of Foreign Affairs.

GB 246
1774 PS.

See 1774 PS - Extracts from Huber Verfassungsrecht des Gross-Deutschen Reiches 1939 p.225

The Prosecution refers to the composition of that body as shown in

GB 217
2031 PS

2031 PS - the decree establishing that body

The Prosecution will also refer to the activities of this defendant during 1938

F. That this defendant was not a member of the Reich Defense Council:

The Reich Defense Council (Reichsverteidigungsarat) was set up soon after Hitler's accession to power on 4th April 1933.

US.24
2261 PS

2961 PS

US. 24 2261 PS
2961 PS Die Führungsordung das deutschen Volkes, by Braune, page 162

also,
2986 PS

2986 PS - Affidavit of Defendant Frick

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That the membership of this Council included the Minister for Foreign Affairs, then the defendant von Neurath, is shown by

EC.177

US. 390 EC.177
page 3 - Composition of the Reich Defense Council

The functioning of this Council, with a representative of this Defendant's Department - von Buelow - present, is shown by the Minutes of the 12th Meeting on 14th May 1936.

EC.407

EC.407

After the secret law of 4 September 1938, this defendant was, under the terms of that Law, a member of the Reich Defense Council by virtue of his office as President of the Secret Cabinet Council.

2194 PS

See 2194 PS

which was a letter dated 4 September 1939 and sent to this defendant enclosing a copy of this Law.

II.

IN ASSUMING THE POSITION OF MINISTER OF FOREIGN AFFAIRS IN HITLER'S CABINET THIS DEFENDANT ASSUMED CHARGE OF A FOREIGN POLICY COMMITTED TO BREACH OF TREATIES.

A. The Nazi Party had repeatedly, and for many years, made known its intention to overthrow Germany's International Committments, even at the risk of war.

See: i) Sections 1 and 2 of the Party Programme published in 1920, and republished every year thereafter.

1708 PS

1708 PS. Nationalsozilistisches Jahrbuch 1944, page 158

ii) Hitler's Speech at Munich, 15th March 1939, when he said with regard to his foreign policy "It is futile nonsense for the rest of the World to pretend to-day, that I did not view this programme until 1933, or 1935 or 1937."

2771 PS.
2541 PS

2771 PS Report of that speech
2541 PS Der Grossdeutsche Freiheitskampf pages 392 - 393.

3546.

B. The acceptance/

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B. The acceptance of force as a means of solving international problems and achieving the objectives of Hitler's foreign policy, must have been known to anyone as closely in touch with Hitler as the Defendant von Neurath.

See passages from Mein Kampf' - quoted by Major Elwyn Jones (transcript page and especially pp. 552, 553 (col.I) 554 (col.II) 557 - 570. English Edition Hutchinson.

III.

IN HIS CAPACITY AS MINISTER OF FOREIGN AFFAIRS VON NEURATH DIRECTED THE INTERNATIONAL ASPECTS OF THE FIRST PHASE OF THE NAZI CONSPIRACY, CONSOLIDATION OF CONTROL IN PREPARATION FOR WAR.

A. From his close connection with Hitler this defendant must have known the cardinal points of Hitler's policy leading up to the outbreak of the World War, as outlined in retrospect by Hitler in his speech to his Military leaders on 23 November 1939.

This policy had two facets:-

i) internally, establishment of rigid control;

ii) externally, the programme to release Germany from its international ties.

This external programme had four points:-

i) Secession from the disarmament conference;

ii) The order to rearm Germany;

iii) The introduction of compulsory military service;

iv) Remilitarisation of the Rhineland.

US.23
789 PS

US.23 789 PS Hitler's speech to Commanders 23 November 1939.

B. As Foreign Minister von Neurath participated directly and personally in accomplishing each of these four aspects of

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Hitler's foreign policy - at the same time officially proclaiming that these measures did not constitute steps toward aggression.

i) Secession from the Disarmament conference.

a) When Germany left the Disarmament Conference this defendant sent a telegram dated 14th Octoner 1933 to the President of the Conference

Dokumente der Deutschen Politik 1933 Vol.I page 94.

b) This defendant also made the announcement of Germany's withdrawal from the League of Nations - 21 Oct. 1933

Dokumente der Deutschen Politik 1933 Vol.I page 94

c) These are referred to in the Transcript pp. 402, 450 and the complementary documents of military preparations

US.51 C.140 (25 Oct.1933), and

US.43.C.153 (12 May 1934)

US.51 C.140

US.43 C.153

ii) Rearmament of Germany.

a) This defendant was foreign minister when:

1. On 10th March 1935 the German Government officially announced the re-establishment of the German Air Force

GB.11 TC.44 Transcript 452- 453

GB.11 TC.44

2. On 21 May 1935 Hitler announced a purported unilateral repudiation of the Naval Military and Air clauses of the Treaty of Versailles and the Treaty for the Restoration of Friendly Relations with the USA.

US.38 2288 PS Speech of Hitler 21 May 1935

US.38 2288 PS.

3. On the same day the Reich Cabinet, of which this defendant was a member, enacted the Secret "Reich Defense Law" creating the office of Plenipotentiary General for War . economy" - afterwards described by the Wehrmacht armament expert as "the corner stone of German reammament". US.24 2261 PS Letter of von Blomberg dated 24 June 1935 enclosing this law.

US.24 2261 PS

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US.35
2353 PS

US.35 2353 PS General Thomas' History of German War and Armament Economy page 35

b) See Transcript pp 334, 408, 417 et seq, 423 - 450

iii) Introduction of Compulsory Military Service.

a) On 16 March 1935 this defendant signed the "Law for the organisation of the Armed Forces" which provided for univers military service and anticipated a vastly expanded German Army. This was described by defendant Keitel as the real start of the large scale rearmament programme which followed.

RGB.1935 Vol.I Teil 1 p. 369

b) Transcript pp 411 et seq. 454 and 455

iv) Re-Militarisation of the Rhineland.

On the 7th March 1936 the Rhineland was re-occupied.

US.56
2289 PS

US.56 2289 PS Announcement of this by Hitler 7 Mar.193

US.53
C.139

US.53 C.139 Operation Schulung Transcript pp. 458 - 464 2 May 193

Some time later this defendant summed up his views on the actions detailed above in a speech before the "Germans abroad made on 29th August 1937, of which I ask the Tribunal to take judicial notice, as it appears in Das Archiv,1937, page 650:-

"The unity of the racial and national will created through Naz with unprecedented elan has made possible a foreign policy through which the bonds of the Versailles Treaty were slashed thre freedom to arm regained and the sovereignity of the whol nation reestablished. We have again become master in our own home, and we have produced the means of power to remain hence forth that way for all times..... The world should notice fr Hitler's deeds and words that his aims are not aggressive one

D.449

D.449

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IV.

BOTH AS MINISTER OF FOREIGN AFFAIRS AND AS ONE OF THE INNER COUNCIL OF THE FUHRER'S ADVISORS ON FOREIGN POLITICAL MATTERS THIS DEFENDANT PARTICIPATED IN THE POLITICAL PLANNING AND PREPARATION FOR ACTS OF AGGRESSION AGAINST AUSTRIA, CZECHO-SLOVAKIA, AND OTHER NATIONS.

A. The Defendants policy:

i) This can be summarised as breaking one treaty only at a time.

ii) He himself put it slightly more pompously in a speech before the Academy of German Law on 30th October 1937, which appears in Das Archiv, October 1937, page 921:

> "Out of the acknowledgment of these elementary facts the Reich Cabinet has always interceded in favour of treating every concrete international problem within methods especially suited for it, not to complicate it unnecessarily by amalgamation with other problems and as long as problems between only two powers are concerned to choose the way for an immediate understanding between these two powers. We are in a positic to state that this method has fully proved itself good not only in the German interest, but also in the general interest".

D.471 D.471

iii) The working out/of that policy can be shown succinctly in the following table:-

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| Date | Action directed against | Action | Country to be reassured | Fraudulent Assurance | Proof of Falsity. |
|---|---|---|---|---|---|
| 1935 | Western Powers | a) Rearmament | Austria (with Italian support in 1935 | Hitler 21.5.35 | Mr. Alderman's documents Transcript 534 545 US.64 |
| 1936 | | b) Occupation of Rhine-land | | Treaty 11.7.36 | von Papen's letters US.64 US.66 US. 69 |
| 1937/ 1938 | Austria | Absorption: planned 5.11.37 Taken 11.3.38 | Western Powers | Assurance to Belgium 13.10.37 | Mr. Roberts' speech Transcript pages 1100 - 1126 |
| 1938/ 1939 | Czechoslovakia | Sudeten-land 29.9.38 | Poland | Assurance to Poland Hitler 20.2.38 GB.30 | Col. Griffith Jones' speech Transcript pages 966 - 1060 |
| | | Absorption 15.3.39 | | Hitler 26.9.38 TC.73-42 | |
| 1939 | Poland | Conquest | Russia | Non-Aggression Pact 23.8.39 | Mr. Alderman's speech Transcript pages 1160 - 1216 |

iv) His own franker statement can be found in the account of his conversation with U.S.Ambassador Bullitt on 18 May 1936 containing the words:-

"...until the German fortifications had been constructed on the French and Belgian frontiers, the German Government would do everything possible to prevent, rather than encourage an outbreak by the Nazis in Austria, and would pursue a quiet line with regard to Czecho-Slovakia".

US.65
L.150

US.65 L.150
Transcript p. 520

B. AUSTRIA /

3561.

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B. AUSTRIA

1. The Defendant was Foreign Minister:-

a) During the early Nazi plottings against Austria in 1934
Transcript pp 475 - 489

b) When the false Assurance was given to Austria on 21 May 3[illegible] and the fraudulent Treaty made on 11 July 1936

GB.19 TC.26
GB.20 TC.22
Transcript pages 544/5

GB.19
TC.26
GB.20- TC.22

c) When the defendant von Papen was carrying on his subterranean intrigues in 1935-37

US.62
2247 PS

Letter from von Papen US.64 2247 PS 17 May 1935
US.67 2246 PS 1 Sept.1936
Transcript 492,516/8,526 - 545
553- 4.

US.67
2246 PS

2. The Defendant was present when Hitler declared at the Hoszb[illegible] interview on 5 November 1937 that the German question could only be solved by force, and that his plans were to conquor Austria and

US.25
386 PS

Czechoslovakia. US.25 386 PS
Transcript 336

3. He received a note dated 11 March 1938 from the British

US.127
3045 PS
US.128
3287 PS

Ambassador:- US.127 3045 PS, and sent the reply

US.128 3287 PS, which have been read by Mr.Alder[illegible]

I only call attention to two obvious untruths:-

a) "It is untrue that the Reich used forceful pressure to bring about this development, especially the assertion which was spread later by the former Chancellor that the German Government had presented the Federal President wi[illegible] a conditional ultimatum, is a pure invention."

b) "The truth of the matter is that the question of sending military or police forces from the Reich was o[illegible] brought up when the newly formed Austrian Cabinet addr[illegible] a telegram, already published by the press, to the Ger[illegible] Government, urgently asking for the despatch of German troops as soon as possible in order to restore peace a[illegible]

order,

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order and to avoid bloodshed. Faced with the immediately threatening danger of a bloody civil war in Austria the German Government then decided to comply with the appeal addressed to it."

The falsity of these statements can be most clearly seen from:

US.61
812 PS

USA.61 812 PS Report of Rainer to Buerckel

US.72
2949 PS

US. 72 2949 PS Transcripts of defendant Goering's telephone conversations".

US.72
1780 PS

US.72 1780 PS Jodl's diary entries for 11, 13th and 14th February
Transcript pages 557 - 584

It is inconceivable that this defendant who, according to defendant Jodl's diary

US.72
1780 PS

US.72 1780 PS entry for 10 March 1937
Transcript p. 560

was taking over the duties of the Foreign Office while Ribbentrop was detained at London, could be ignorant of the truth.

It was, however, the special function of this defendant to cover with the remains of his former reputation as a diplomat the fraudulent statements of Hitler. His attitude is shown in Mr. Messersmith's affidavit

US.68
2385 PS

US.68 2385 PS
Transcript 536

"In an official dispatch to the Department of State from Vienna dated October 10, 1935, I wrote as follows:-

> "'.. Europe will not get away from the myth that Neurath, Papen and Mackensen are not dangerous people and that they are "diplomats of the old school." They are in fact servile instruments of the regime and just because the outside world looks upon them as harmless, they are able to work more effectively. They are able to sow discord just because they propagate the myth that they are not in sympathy with the regime"'.

4. At the time of the occupation of Austria this defendant fu gave the Assurance to Mr.Mastny regarding the continued independence of Czechoslovakia.

It will be noted that he recognises the validity of the German-Czechoslovakia Treaty of Arbitration made at Locarno in 1925

GB.21
TC.27

GB.21 TC.27
Transcript 962.

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C. CZECHOSLOVAKIA.

1. On 28 May 1938 Hitler held a conference of important leaders including Beck, von Brauchitsch, Raeder, Keitel, Goering and Ribbentrop, at which Hitler affirmed that preparations should be made for military action against Czecho-Slovakia by October, and it is believed that the defendant von Neurath attended.

Transcript page 742- 3

2. On 4th September 1938 the government of which von Neurath was a member enacted a new "Secret Reich Defense Law" which defined various official responsibilities in clear anticipation of war. This law provided (as did the previous Secret Reich Defense Law) for a "Reich Defense Council" as a supreme policy board for war preparations.

US.36
2194 PS

US.36 2194 PS Secret Reich Defense Law 4 Sept.1938
Transcript 410

3. In spite of the Munich agreement of 29 September 1938, on 14th March 1939 German troops marched into Czechoslovakia

GB.7
TC.50

GB.7 TC.50 Proclamation by Hitler to the German people and order to the Wehrmacht of 15 March 1939
Transcript 945.

4. On 16th March 1939 the German Government, of which von Neurath was still a member, promulgated the "Decree of the Fuhrer and Reich Chancellor on the Establishment of the Protectorate "Bohemia and Moravia" of 16th March 1939.

GB.8
TC.51

GB.8 TC.51 German Decree establishing the Protectorate of Bohemia and Moravia of 16 March 1939.
Transcript 947

5. The following week, the defendant von Ribbentrop signed a Treaty with Slovakia, Article 2 of which provided:-

"For the purpose

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"For the purpose of making effective the protection undertaken by the German Reich, the German armed forces shall have the right at all times to construct military installations and to keep them garrisoned in the strength they deem necessary, in an area delimited on its western side by the frontiers of the State of Slovakia, and on its eastern side by a line formed by the eastern rims of the Lower Carpathians, the White Carpathians, and the Javornik mountains....."

Transcript page 922.

1439 PS

1439 PS Treaty of Protection between German Reich and State of Slovakia 23 March 1939.

V.

BY ACCEPTING AND OCCUPYING THE POSITION OF REICH PROTECTOR OF BOHEMIA AND MORAVIA DEFENDANT VON NEURATH PERSONALLY ADHERED TO THE AGGRESSION AGAINST CZECHOSLOVAKIA AND THE WORLD, HE FURTHER ACTIVELY PARTICIPATED IN THE CONSPIRACY OF WORLD AGGRESSION, and HE ASSUMED A POSITION OF LEADERSHIP IN THE EXECUTION OF POLICIES INVOLVING VIOLATING OF THE LAWS OF WAR AND THE COMMISSION OF CRIMES AGAINST HUMANITY.

A. Von Neurath assumed the position of Protector under a sweeping grant of powers. The act creating the Protectorate provided, inter alia,:-

Article 5 (1) The Fuhrer and Reich will appoint as a guardian of the interests of the Reich a "Reich Protector of Bohemia and Moravia." His official residence shall be in Prague.

(2) It shall be the duty of the Reich Protector as representative of the Fuhrer and Reich Chancellor and as the agent of the Government of the Reich, to assure compliance with the political instructions issued by the Fuhrer and Reich Chancellor.

(3) The members of the government of the Protectorate shall hold office subject to confirmation by the Reich Protector. A confirmation made may be later revoked.

(4) /

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(4) The Reich Protector may demand information concerning all acts of the government of the Protectorate and may offer his counsel to the Government. He may protect against measures which may be harmful to the Reich, and, in cases of emergency, may take all steps necessary to the common welfare.

(5) The publication of statutes, orders, and other general rules and regulations, and the enforcement of administrative measures and execution of judicial decisions which have become final, shall be suspended upon notice of protest given by the Reich Protector."

GB.8
TC.51

GB.8 TC.51 German Decree establishing the Protectorate of Bohemia & Moravia 16th March 1939

B. At the very outset of the Protectorate von Neurath's supreme authority was implemented by a series of basic decrees, of which I ask the Tribunal to take judicial notice, which established the alleged legal foundation for the policy and program which resulted. All aimed towards the systematic destruction of the national integrity of the Czechs.

1. By granting the "Racial Germans" in Czechoslovakia a superior order of citizenship.

Decree of the Fuhrer and Reich Chancellor concerning the Protectorate of Bohemia and Moravia. 16 March 1939.RGB.I.p.485

An Act concerning the Representation in the Reichstag of Greater Germany of German Nationals Resident in the Protectorate of Bohemia and Moravia, 13 April 1939 RGB.I. p. 762

Order concerning the acquisition of German Citizenship by former Czechoslovakia citizens of German origin, 20 April 1939 RGB.I. p. 815

2. By granting "Racial Germans" in Czechoslovakia a preferred status at law and in the courts.

Order concerning the Exercise of Criminal Jurisdiction in the Protectorate of Bohemia and Moravia. 14 April 1939 RGB.I.p.753

Order /

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Order concerning the Exercise of Jurisdiction in Civil Proceedings in the Protectorate of Bohemia and Moravia
14 April 1939 RGB.I. p. 759.

Order concerning the Exercise of Military Jurisdiction in the Protectorate of Bohemia and Moravia
8 May 1939 RGB.I. p. 903

3. By granting the Protector broad powers to change by decree the autonomous law of the Protectorate.

Ordnance on Legislation in the Protectorate of Bohemia and Moravia
7 June 1939. RGB.I. p.1039

4. By authorising the Protector and the Reich Leader SS and the Chief of the German Police "to take, if necessary, such (police) measures which go beyond the limits usually valid for police measures".

not
PS.2852 3756-PS

not Sept.
PS.2852 Decree of 1st ~~October~~ 1939
RGB.Vol.I. page 1681

C. The declared basic policy of the Protector was predicated upon the central objective of destroying the idehtity of the Czech as a nation and absorbing their territory into the Reich.

US.313
862 PS

US.313 862 PS Frederici memorandum
15 October 1940 re "plan to Germanise Czechoslovakia".

D. The result was a program of consolidating German control over Bohemia and Moravia by the systematis oppression of the Czech through the abolishment of civil liberties and the systematic undermining of the native political, economic and cultural structure by a regime of terror, which will be dealt with by my Russian colleagues. They will show that the only "protection" given by this defendant was protection to the perpetrators of innumerable crimes.

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VI.

HONOURS AND REWARDS.

Hitler showered more honours on Neurath than on some of the leading Nazis who had been with the Party since the very beginning. His appointment as President of the newly-created Secret Cabinet Council in 1938 was in itself a singular distinction. On September 22, 1940, Hitler awarded him the War Mer Cross 1st Class as Reich Protector for Bohemia and Moravia. (Deutsches Nachrichten - Buero 22. 9. 1940). He was also awarded the Goldene Ehranzeichen of the Party and was promoted by Hitler personally to the rank of Obergruppenfuhrer in the SS. on June 21, 1943. He and Ribbentrop were the only two Germans to be awarded the Adlerorden - a distinction normally reserved for foreigners - by Hitler. His 70th birthday on February 2, 1943, was made the occasion for most of the German newspapers to praise his many years of service to the Nazi Regime.

US.19
2972 PS

US.19 2972 PS

These services may be summed up in two ways:-

i) He was an internal fifth columnist among the Conservative political circles in Germany. They had been anti-Nazi but were converted in part by seeing one of themselves, in the person of this defendant, wholeheartedly with the Nazis.

ii) His previous reputation as a diplomat made public opinion abroad slow to believe that he would be a member of a cabinet which did not stand by its words and assurances. It was most important for Hitler that his own readiness to break every treaty or commitment should be concealed as long as possible, and for this purpose he found in the defendant von Neurath his handiest tool.

Filed Jan. 7, 1946
HBM

INTERNATIONAL MILITARY TRIBUNAL

H-1174

Jan 7/46

# BRITISH TRIAL BRIEF

## CONSTANTIN v. NEURATH

H1174-0017